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EXAMINER

PAPE, ZACHARY

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/826,046
Filing Date: April 16, 2004
Appellant(s): HOMER, STEVEN S.

MAILED

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GROUP 2800

James L. Baudino (43,486)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/16/2007 appealing from the Office action mailed 4/11/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

10/235,359	Homer et al.	8-2007
2002/0151328	Shin et al.	10-2002

2002/0100805

Detwiler

8-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Double Patenting

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 35 and 40 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 34 of copending Application No. 10/235,359 (claims filed 1/19/2007). This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

With respect to claims 35 and 40 of the present applications, claims 1-10, 18-22, 24, 34-35, and 37 of application 359 teach a screen; and an antenna formed on the screen, wherein the screen comprises a transparent screen.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5-8, 11-13, 15, are rejected under 35 U.S.C. 102(b) as being anticipated by Shin et al. (US 2002/0151328).

With respect to claim 1, Shin et al. teaches a portable computer system, comprising: a bezel (55) having a bezel flange (57) contacting and supporting a screen (38, see paragraph 64); and an antenna (40) disposed at least partially between the bezel flange and a portion of the screen (See Paragraph 64, where when the flange (57) surrounds the screen member, it will effectively place the antenna between the itself and the screen member).

With respect to claim 3, Shin et al. further teaches that a display device (Behind screen 38) is disposed adjacent an interior surface of the screen (As illustrated in Fig 2).

With respect to claim 5, Shin et al. further teaches that the antenna comprises a pattern portion (43, as illustrated in Fig 3).

With respect to claim 6, Shin et al. further teaches that the antenna comprises an extension portion (From 48a, to 49a) extending from the pattern portion to a screen connector (As illustrated in Fig 3).

With respect to claim 7, Shin et al. further teaches that the antenna comprises an extension portion (As illustrated in Fig 5 by the dashed lines) extending to at least two side areas of the screen member (See also paragraph 60).

With respect to claim 8, Shin et al. teaches a screen connector (48a) adapted to conductively couple the antenna (40) to an internal antenna circuit of the portable computer system.

With respect to claim 11, Shin et al. further teaches a portable computer system, comprising: means (50, 55) for contacting and supporting a screen (38, See paragraphs 64 and 80); and antenna means (40) disposed at least partially between the supporting means and an interior surface of the screen (See paragraph 64, see also paragraph 80 and Fig 2).

With respect to claim 12, Shin et al. further teaches a means (48a) for conductively coupling the antenna means (40) to an internal antenna circuit (43) of the portable computer system.

With respect to claim 13, Shin et al. further teaches means (54) for conductively coupling the antenna means (40) to the contacting and supporting means (50,55, see paragraph 80).

With respect to claim 15, Shin et al. further teaches a display means (Behind screen 38) disposed adjacent the interior surface of the screen member (As illustrated in Fig 2).

Claims 35-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Detwiler (US 2002/0100805).

With respect to claim 35, Detwiler teaches a portable computer system, comprising: a screen (32) and an antenna (34) formed on the screen (See Figs 3-5).

With respect to claims 36-39, Detwiler further teaches that the antenna (34) comprises at least one conductive trace (50) deposited/applied to a (an interior) surface of the screen (See Fig 5).

With respect to claim 40, Detwiler further teaches that the screen comprises a transparent screen (See Paragraph 35).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4, 14, 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shin et al. in view of Detwiler (US 2002/0100805).

With respect to claim 2, Shin et al. teaches the limitation of claim 1 above, but is silent as to the antenna (40) comprising a conductive trace deposited on an interior surface of the screen (38). Detwiler teaches the conventionality of depositing a conductive antenna trace (Generally 34) on an interior surface of a screen (32, See Paragraph 26, see also Figs 4-5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Detwiler with that of Shin et al. to provide additional area by which the antenna can clearly communicate with external devices while decreasing housing complexity involved with housing the antenna (Detwiler Paragraph 6).

With respect to claim 4, Shin et al. teaches the limitations of claim 1 above but is silent as to the antenna extending a predetermined distance along an interior surface of the screen. Detwiler teaches the conventionality of an antenna (34) extending a predetermined distance along an interior surface of a screen (32, see Figs 4-5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Detwiler with that of Shin et al. to provide additional area by which the antenna can clearly communicate with external devices while decreasing housing complexity involved with housing the antenna (Detwiler Paragraph 6).

With respect to claim 14, Shin et al. teaches the limitations of claim 11 above but is silent as to the antenna means comprising conductive means deposited on the interior surface of the screen. Detwiler teaches the conventionality of an antenna conductive means (34) deposited on the interior surface of a screen (32, see paragraph

26, see also Figs 4-5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Detwiler with that of Shin et al. to provide additional area by which the antenna can clearly communicate with external devices while decreasing housing complexity involved with housing the antenna (Detwiler Paragraph 6).

With respect to claim 16, Shin et al. further teaches a method of manufacturing a portable computer system, comprising: providing a bezel (55) having a bezel flange (57) adapted to support a screen (38) at least a portion of an antenna (cable 43) disposed between the bezel flange and the screen. Shin et al. is silent as to the screen having an antenna disposed on an interior surface thereof. Detwiler teaches the conventionality of having a screen (32) with an antenna (34) disposed on an interior surface thereof (See Fig 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Detwiler with that of Shin et al. to provide additional area by which the antenna can clearly communicate with external devices while decreasing housing complexity involved with housing the antenna (Detwiler Paragraph 6).

With respect to claim 17, Shin et al. further teaches conductively coupling the antenna to an internal antenna circuit of the portable computer system (Paragraph 76).

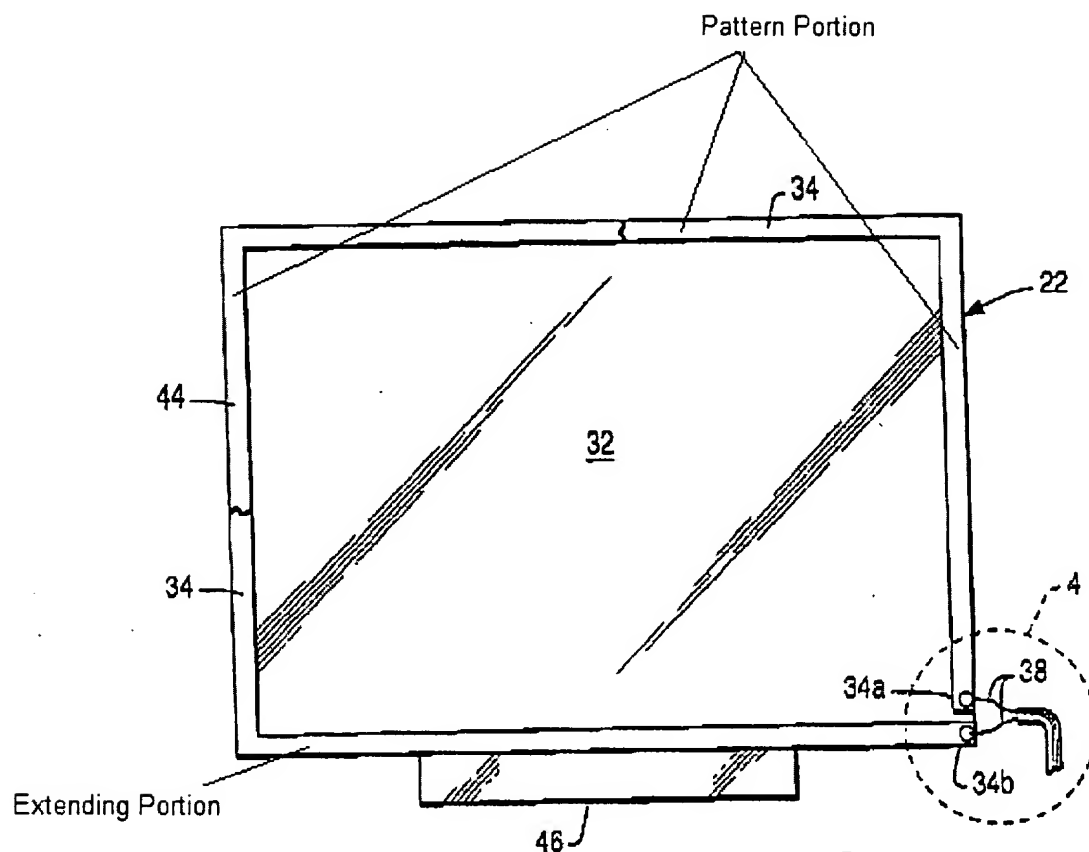


Fig 1

With respect to claim 18, Detwiler further teaches providing a screen (32) having a pattern antenna portion disposed on the interior surface of thereof (See Fig 3, see also POA Fig 1 above).

With respect to claim 19, Detwiler further teaches a screen having an extension portion extending from the pattern antenna portion to a screen connector (See POA Fig 1 above).

(10) Response to Argument

A. Standard

B. Argument

1. Rejection Under 35 U.S.C. 101 (Statutory Double Patenting)

a. Claims 35 and 40

5. With respect to the Appellants remarks to claims 35 and 40 that, Claim 35 of the instant application is not claiming the "same invention" as claim 34 of '359 Application", because, "claim 35 of the instant application recites, "an antenna formed on the screen," while claim 34 of the '359 Application recites an antenna "disposed on and behind the transparent screen panel", the Examiner respectfully disagrees. The Examiner notes that for the purposes of examination, formed on is given little patentable weight as per *In re Thorpe*, 227 USPQ 964, 966 (Fed. Cir. 1985) since forming something is a product by process limitation. Further the Examiner notes MPEP 804(II)(A) which recites, in part, "On the other hand, claims may be differently worded and still define the same invention." Additionally, the Examiner notes [0010] of the instant application which recites, "antenna 20 may comprise a conductive trace deposited, etched, or otherwise formed on" which teaches that depositing is a method of "forming on". Therefore, the Examiner asserts that, "disposing" is merely a different way of wording "depositing", especially in view of the fact that an object which is disposed on a device is the same as an object which is deposited on a device - in both instances the object becomes a part of the underlying device.

6. With respect to the Appellants remarks to claims 35 and 40 that, "claim 34 of the '359 Application recites (limitations which are not present in the instant application) while such limitations are not present in Claim 35 of the instant application", the Examiner respectfully notes that claim 35 of the instant application recites, "comprising" which is open-ended language. Further the Examiner notes that claim 34 of the '359 application is no less anticipatory simply because it recites additional limitations not present in claims 35 and 40 of the instant application.

2. Rejection Under 35 U.S.C. 102(b) in view of Shin

a. Claims 1, 3, and 5-8

7. With respect to the Appellants remarks to claim 1 that, "Shin does not disclose each and every limitation as recited by independent Claim 1", because, "the side wall 57 of Shin is neither contacting the display panel 38 of Shin nor supporting the display panel 38 of Shin", the Examiner respectfully disagrees. First, the Examiner asserts that the claim language, "a bezel having a bezel flange contacting and supporting a screen" is ambiguous since it can be interpreted as the bezel is contacting and supporting a screen or that the bezel flange is contacting and supporting a screen. This is further evidenced by Fig 2 (present office action (hereinafter, "POA")) of the instant application which has, in part, been reproduced and annotated for clarity.

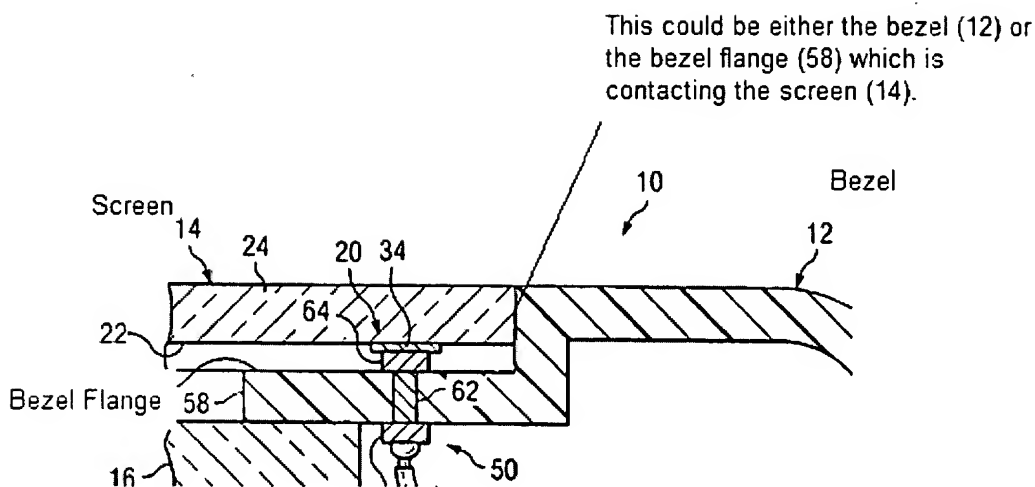


Fig 1

As such, the Examiner asserts that it is reasonable to interpret the claim to read that the bezel is contacting and supporting the screen. The Examiner therefore directs the Appellant to Fig 2 of Shin et al. which discloses, in part, a bezel (55), a bezel flange (57) a display (35) with a screen (38), an antenna (40) and a lower housing (50). When assembled, the antenna (40) will attach to the side of the display (35) via 47 and 39b, the display will be recessed into the lower housing (50) and the bezel and bezel flange (55, 57) will be placed on top of the display. When the bezel and bezel flange are placed on top of the display, the bezel will both contact (either directly or indirectly – depending on whether 55 contacts 37 or 38 of the display) and (therefore) support the screen such that the display will remain inside the lower housing (50). However, should the bezel flange be interpreted as being the structure which contacts and supports the screen, the Examiner asserts that the flange will also indirectly contact (Via 55, and

perhaps 37) the screen and therefore provide support to the screen/display. Further, the Examiner asserts that both the bezel (55) and the flange (57) are both in thermal contact with the screen as well.

8. With respect to the Appellants remarks to claim 1 that, "Shin does not disclose or even suggest the limitation of "an antenna disposed at least partially between the bezel flange and a portion of the screen" as recited" because, "antenna 40 of Shin appears to be disposed between side wall 39 of display unit 35 of Shin and side wall 57 of upper case 55 of Shin and not between "a screen" of the Shin device and side wall 57 of upper case of Shin", the Examiner respectfully agrees that the antenna (40) will reside between bezel flange (57) and the side wall (39) of the display (35), however the Examiner asserts that, when assembled, the antenna (40) will also reside between the screen (38) and the bezel flange (57) since the screen is recessed slightly into the display (35) and below frame (37).

9. With respect to the Appellants remarks to claims 1, 3, and 5-8, the Examiner notes paragraph numbers 7-8 above.

b. Claims 11-13, and 15

10. With respect to the Appellants remarks to claim 11 that, "Shin does not disclose each and every limitation as recited by independent claim 11", because, "neither upper case 55, lower case 50, nor any of the walls associated with lower case 50 and upper case 55 both contact and support display panel 38 of Shin", the Examiner respectfully disagrees. As per the rejection above, Shin teaches a means (50, 55) for contacting

and supporting a screen (38) where [0064] of Shin specifically recites, "upper case 55 is formed in a square-rim shape, and a side wall 57 thereof is fixed to the lower case 50 in a manner surrounding the display unit 35 to support the display unit 35" where the screen (38) is a part of the display unit (35) and thus similarly supported thereby.

Regarding the specific limitation of "contacting", the Examiner asserts that the means (50, 55) contacts (both directly and indirectly) the screen (38) when the product disclosed in Fig 2 is fully assembled.

11. With respect to the Appellants remarks to claim 11 that, "Shin does not disclose or even suggest the limitation of "an antenna disposed at least partially between the supporting means and the interior surface of the screen" as recited" because, "antenna 40 of Shin appears to be disposed between side wall 39 of display unit 35 of Shin and side wall 57 of upper case 55 of Shin and not between "a screen" of the Shin device and upper case 55 and lower case 40 of Shin, much less between an interior surface" of a screen of the Shin device and the side wall 57 of Shin", the Examiner respectfully agrees that the antenna (40) will reside between bezel flange (57) and the side wall (39) of the display (35), however the Examiner asserts that, when assembled, the antenna (40) will also reside between an interior surface of the screen (38, wherein an interior surface includes the edge of the screen which is internal and parallel to wall 39) and the bezel flange (57) since the screen is recessed slightly into the display (35) and below frame (37).

12. With respect to the Appellants remarks to claims 12, 13, and 15, the Examiner notes the remarks in paragraphs 10-11 above.

3. Rejection Under 35 U.S.C. 102(b) in view of Detwiler

a. Claim 35-37, and 40

13. With respect to the Appellants remarks to claim 35 that, "Detwiler does not disclose each and every limitation as recited by independent Claim 35" because, "the loop antenna 34 of Detwiler is not "formed on the screen" of the Detwiler device", the Examiner respectfully disagrees. The Examiner notes that the limitation "formed on" is a product by process limitation which is given little patentable weight as per *In re Thorpe*, 227 USPQ 964, 966 (Fed. Cir. 1985). Even so, the Examiner notes that [0010] of the instant application which recites that depositing is a method of forming something on a device ("antenna 20 may comprise a conductive trace deposited, etched, or otherwise formed on") and clearly the antenna (34) of Detwiler is deposited onto the screen (32) via adhesive (40, see [0033] of Detwiler).

b. Claims 38 and 39

14. With respect to the Appellants remarks to claim 38 that, "Detwiler does not disclose each and every limitation as recited by Claim 38" because, "Nowhere in Detwiler is there any disclosure or even suggestion that antenna loop 34 is a "conductive trace deposited onto" a surface of a screen as recited in Claim 38", the Examiner respectfully disagrees. As per Fig 4 and [0033] of Detwiler, element 34 is a conductive trace (where a copper foil ribbon is a conductive trace as claimed) which is deposited onto (Via 40) a surface of a screen (32).

4. Rejection Under 35 U.S.C. 103(a)

a. Claims 2, 4, and 14

15. With respect to the Appellants remarks to claims 2, 4 and 14, the Examiner notes paragraph numbers 7-11 above.

b. Claims 16-19

16. With respect to the Appellants remarks to claim 16 that, "independent Claim 16 is patentable over the cited references" because, "the side wall 57 of Shin clearly does not support in any fashion or degree the display panel 38 of Shin", the Examiner respectfully disagrees and directs Appellant to [0064] of Shin which clearly teaches that the bezel flange (57) supports the display unit (35) and therefore the screen (38) as claimed.

17. With respect to the Appellants additional remarks to claim 16 that, "at the very least, locating the antenna 43 of Shin on the interior surface of the screen 38 of the Shin device as apparently proposed by the Appellee would result in the antenna 43 of Shin no longer being located in a position on the Shin device relied on by the Appellee to purportedly teach "at least a portion of the antenna disposed between the bezel flange and the screen" as recited by Claim 16", the Examiner respectfully disagrees. The Examiner notes that element 43 of Shin was detailed in the rejection as being, "a portion of the antenna" and not the antenna as alleged. As such, the Examiner asserts that since the conductive trace (34) of Detwiler would be placed on an interior surface of the

screen (38) of Shin, the antenna portion (43) of Shin would still remain adjacent the exterior side wall (39) of the display (35) as a means of routing the signal received by the trace to the computing components and therefore, when the display (35) is assembled into the lower housing (50) and the bezel (55) and bezel flange (57) are lowered onto the display (35) the antenna portion (43) would remain sandwiched between the bezel flange (57) and the screen (38).

18. With respect to the Appellant's additional remarks to claim 16 that, "there appears to be no motivation or suggestion to combine purported teachings as proposed by the Appellee other than Appellant's disclosure, which is improper", the Examiner respectfully notes that in both the final office action mailed 4/11/2007 and in the rejection above, the Examiner has provided explicit motivation in the Detwiler reference (Specifically [0006] of Detwiler which teaches that one would want to incorporate the antenna on the screen to reduce mechanical complexities) for combining the two references and therefore could not possibly have used improper hindsight as alleged.

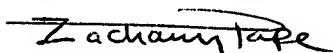
(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Zachary M. Pape



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Conferees:

David Blum

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Jayprakash Gandhi

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